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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/323,628	06/01/1999	KENSHIN KITO	791-052	9448

25191 7590 08/29/2002

BURR & BROWN  
PO BOX 7068  
SYRACUSE, NY 13261-7068

EXAMINER

SORKIN, DAVID L

ART UNIT	PAPER NUMBER
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1723

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DATE MAILED: 08/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/323,628

Applicant(s)

KITOH, KENSHIN

Examiner

David L. Sorkin

Art Unit

1723

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 August 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☒ The proposed amendment(s) will not be entered because:  
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☒ they raise the issue of new matter (see Note below);  
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see Detailed Action.

3. ☒ Applicant's reply has overcome the following rejection(s): see Detailed Action.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see Detailed Action.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1 and 3-27.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.  
10. ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The sworn translation of Japanese Application No. 10-153256 is considered to overcome the rejections based upon Japanese Publication No. 10-172534. However, all pending claims remain rejected based upon other grounds.
2. The proposed amendment has not been entered. New issues, such as separately reciting aspects of tabs connected to the positive and negative electrode, have been raised. Also, the issue of new matter has been raised by this specific recitation of tab aspects for the positive and negative electrodes. Also, the limitation requiring incredible properties is no-longer present in proposed claim 1, so references not having such properties would need to be considered.
3. The examiner disagrees with applicant's assertion that "[i]t is well known that whether or not a tab would fuse (under normal conditions) depends solely on the materials of the tab and the cross-sectional area of the tab". For example, it is well known to use a fan to prevent conductors from fusing. The fan does not change the cross-sectional area of the conductor, but instead increases the rate of cooling relative to that in dead air. Also, the examiner believes that, given tabs having a cross-sectional area of, for example,  $100\text{ }\mu\text{m}^2$ , a cross-section of  $100\text{ }\mu\text{m} \times 1\text{ }\mu\text{m}$  would cool more efficiently than a cross-section of  $10\text{ }\mu\text{m} \times 10\text{ }\mu\text{m}$ , due to greater surface area. All other factors being equal, the tab of  $10\text{ }\mu\text{m} \times 10\text{ }\mu\text{m}$  cross-section would fuse more readily.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 703-308-1121. The examiner can normally be reached on 8:00 -5:30 Mon.-Fri..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



David Sorkin

August 28, 2002

  
JOHN KIM  
PRIMARY EXAMINER  
GROUP 1900